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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/593,291

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Ronald R. Foster

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PERKINS COIE LLP

PATENT-SEA

P.O. BOX 1247

SEATTLE, WA 98111-1247

EXAMINER

DIEP, NHON THANH

ART UNIT

PAPER NUMBER

2613

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/593,291

Applicant(s)

FOSTER ET AL.

Examiner

Nhon T Diep

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-19 and 21-32 are rejected under the judicially created doctrine of double patenting over claim of U. S. Patent No. 6,704,044 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: Claims 1-20 of the US patent encompass claims 1-19 and 21-32 of the present application.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

3. Claim 20 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 16 of U.S. Patent No. 6,704,044 in view of Mace (US 4,972,795). Claim 20 of the present

Even though, claim 16 of the US patent does not particularly disclose an electronic connection between the camera unit and a face mask of the helmet to allow the face mask to be useable as an antenna as specified in claim 20 of the present application; however, since Mace teaches the using of the football helmet as an antenna and therefore, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify claim 16 of the present application to have a cap or any headwear mounted camera unit including a football helmet as taught by Mace as an antenna unit and since the face mask of the football helmet provide the best conducting material, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to further modify claim 16 of the present application by

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using the face mask of the football helmet as an antenna so as not to have to install separate antenna.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1- 8, 11-13, 16-17, 23-26, 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summers (US 6,111,571).

Summers discloses a method and computer program for operating an interactive themed attraction accessible by computer users comprising: using a helmet-mounted camera unit to capture images (col. 4, line 4-9), the camera unit having a single-chip image sensor (most electronic cameras are single-chip image sensors); transmitting, from the cap mounted camera unit to a remote station, a signal representative of the capture images (col. 3, lines 56-65); and transmitting a control signal from the remote station to the cap-mounted camera unit to control a parameter associated with the helmet-mounted-mounted camera unit (col. 3, lines 53-55 and col. 58-60) as specified in claims 1, 5, 11, 17, 23 and 29; the signals are transmitted along a wireless radio frequency communication link (col. 3, lines 62-65) as specified in claims 2 and 26; adjusting a field of view of the cap-mounted camera unit by using an adjusting unit attached to the cap-mounted camera unit to change an orientation of the cap-mounted camera unit (servo motors 32 applicable to portable camera 34) as specified in claim 3;

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the parameter associated with the cap-mounted camera unit comprises one of an exposure, gain, white balance, color saturation, brightness, or hue (col. 3, lines 53-55, notice that only one limitation is required to be met for the alternative claim language) as specified in claim 4; an image sensor array to capture images; and a processing unit coupled to the image sensor array to use the parameters to process the images and to provide the signal representative of the captured images to the transmit unit, wherein the processing unit is responsive to the control signals change of the parameters (col. 3, lines 53-55 and col. 58-60) as specified in claims 12 and 24; and a control unit coupled to receive the control signals from the receive unit and coupled to the processing unit to control operation of the processing unit based on the control signals (col. 3, lines 53-55 and col. 58-60) as specified in claims 13 and 25. It is noted that Summers does not particularly disclose that a helmet-mounted camera can be a cap-mounted camera. However, it would have been obvious to one of ordinary skilled level in the art at the time the invention was made to mount the camera of Summers onto any head wear such as cap, baseball cap, headband, headgear as a matter of designer's choice.

With regard to claims 6-8, 16 and 32: Official Notice is taken with regard to the image sensor comprises a color complementary metal oxide semiconductor (CMOS) image sensor having a processing unit to allow processing of images; the processing unit includes components to provide a Nation Standards Committee (NTSC), Phase Alternating Line (PAL), or System Electronique Couleur Avec Memoire (SECAM) video format derived from the capture images; and the processing unit includes components to provide a digital data derived from the captured images. Since the above mentioned

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limitations are well known in the pertinent art and therefore, it would have been obvious to an ordinary skilled level in the art at the time the invention was made to use CMOS camera with a processing unit for processing image signal to digital data as conformed to the NTSC, PAL or SECAM format. Doing so would help to transmit and process captured images for display with popular video format.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Summers (US 6,111,571), in view of Mace (US 4,972,795).

As applier to claim 17 above, it is noted that Summers does not particularly disclose an electronic connection between the camera unit and a face mask of the helmet to allow the face mask to be useable as an antenna as specified in claim 20. Mace teaches the using of the football helmet as an antenna and therefore, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify the system of Summers et al to have a cap or any headwear mounted camera unit including a football helmet as taught by Mace as an antenna unit and since the face mask of the football helmet provide the best conducting material, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to further modify the system of Summers by using the face mask of the football helmet as an antenna so as not to have to install separate antenna.

7. Claims 9-10, 14-15, 18-19, 21-22, 27-28 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summers, in view of Coombs (US 6,023,288).

As applied to claim 5 and 29 above, it is noted that Summers does not particularly disclose that the cap comprises a football helmet having a face guard, the

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method further comprising: placing components of the camera unit in the housing; and affixing a mounting mechanism to the housing, the mounting mechanism including an clamping structured to allow the housing to be mounted to the face mask and to allow a change in an orientation of the housing as specified in claims 9, 14, 18, 28 and 30-31; and a threaded adjusting unit attached to the substrate and movable to change planar surface position of the substrate to change a field of view of the camera unit with a ball and socket assembly coupled to the housing to allow rotational change of the orientation of the housing to change a field of view of the camera unit as specified in claims 10, 15, 19 and 27. Coombs et al teaches the placing of component of the camera unit in the housing and affixing a mounting mechanism to the housing and adjusting unit to allow rotational change (col. 5, line 61 – col. 6, line 17). Therefore, it would have been obvious to one of ordinary skilled level in the art at the time the invention was made to modify the system of Summers et al by applying the mounting teaching of Coombs et al. Doing so would help to protect the camera and to obtain better field of view. Further more, with regard to an antenna integrally formed in the cap and connected to the transmit and receive units of the camera unit as specified in claim 21; and an elongated adjusting unit having threads and attached to a substrate of the camera unit, the substrate including a fixture having a threaded opening to correspondingly receive the threads of the adjusting unit, the adjusting unit being rotatable to allow movement of the adjusting unit along the threads of the fixture to change a planar position of the substrate as specified in claim 22. The examiner contends that these limitations on how to form an antenna integrally and an elongated

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adjusting unit having threads and attached to a substrate of the camera unit, the substrate including a fixture having a threaded opening, ... as claimed would have been obvious to an ordinary skilled level in the art when one decides to combine Summers and Coombs et al to result in a rotational capability for the combine system to allow better desired field of view for the camera system.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Fish (US 6,155,974) discloses a multiplexed brain wave monitoring system and method.

b. Hernandez et al (DES. 420,670) describes a football helmet antenna ornament.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon T Diep whose telephone number is 703-305-4648. The examiner can normally be reached on m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S Kelley can be reached on 703 305-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703 87209314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-2600.

MP
31 May 04


NHON DIEP
PRIMARY EXAMINER